



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	02/13/04	Bill No:	AB 2000
Tax:	Business, Property, Income	Author:	Dutton
Board Position:		Related Bills:	ACA 22 (Dutra)

BILL SUMMARY

This bill would abolish the Franchise Tax Board (FTB) and would transfer all of its duties and powers to the Board of Equalization (BOE), operative January 1, 2006. This bill would also require the BOE to submit a report to the Governor and the Legislature by June 30, 2005, regarding the BOE's assumption of its new duties.

ANALYSIS

Current Law

Under existing law, the BOE administers, among other things, the following tax and fee programs: sales and use tax, Bradley-Burns uniform local sales and use tax, transactions and use tax, alcoholic beverage tax, cigarette and tobacco products tax, motor vehicle fuel tax, diesel fuel tax, interstate user tax, emergency telephone users surcharge, energy resources surcharge, insurance tax, integrated waste management fee, natural gas surcharge, childhood lead poisoning prevention fee, oil spill response and prevention fee, underground storage tank maintenance fee, use fuel tax, marine invasive species fee, hazardous substances tax, California tire fee, occupational lead poisoning prevention fee, timber yield tax and private railroad car tax. The BOE also assesses the property of public utilities and common carriers, and provides certain administrative and oversight functions with respect to the local property tax.

The BOE comprises four elected members, one from each equalization district, and the State Controller. The board itself is responsible for setting the values for state-assessed properties on the board roll and for hearing appeals of those values. It also hears appeals relating to all of the taxes and fees it administers, as well as the taxes administered by the FTB.

The FTB was created by statute and comprises the Controller, the Director of Finance, and the Chair of the BOE. It administers the personal income tax and the corporation tax. In addition, the FTB administers other non-income tax related programs, including the Homeowner and Renter Property Tax Assistance program, child support and other non-tax debt collection programs, Political Reform Audit, and the Non-admitted Insurance Tax program.

The FTB and the BOE adopt rules and regulations for the taxes that the respective agencies administer. In addition, the BOE prescribes rules and regulations to govern

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county assessors when assessing property and assessment appeals boards when equalizing property values.

Proposed Law

This bill would add Section 15627 to the Government Code to abolish the FTB and transfer all of its duties, powers, purposes, and responsibilities, and jurisdiction to the BOE. All statutes and laws prescribing such duties and powers of the FTB, including all rules and regulations, are to continue in force. Any references to the FTB used in any statute, law, rule, or regulation shall hereafter mean the BOE. This bill specifies that any court action in which the FTB is party to on or before January 1, 2006, shall continue in the name of the BOE.

This bill would repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of the Government Code related to the establishment and certain duties of the FTB.

This bill would add Section 20.5 of the Revenue and Taxation Code to provide that any references to the FTB shall hereafter mean the BOE.

This bill would also provide the following:

- Specifies that the civil service staff of the FTB shall be transferred to the BOE in accordance with existing law;
- Specifies that any contract, lease, or any other agreement in which the BOE or the FTB is a party would not be voided and shall continue in full force and effect with the BOE assuming all rights, obligations, and duties of the FTB;
- Requires that all monies of the FTB on and after January 1, 2006, shall be made available for the support and maintenance of the BOE; and,
- Requires that all books, documents, records, and property of the FTB shall be transferred to the BOE.

The bill would require the BOE to submit a report to the Governor and the Legislature by June 30, 2005, on its plan and progress of consolidation. The report shall include the following information:

- A strategic plan to transfer the duties and responsibilities of the FTB into the BOE, including the identification of critical issues and the consolidation of computer systems, telecommunications, and office space;
- Identification of those functions that are conducive to consolidation or centralization, including administration, document processing, remittance cashing, public service, collection, and physical equipment and facilities; and,
- Identification of those administrative functions that, because of statutory conflicts or inconsistent administrative processes of the FTB and the BOE, are more difficult to consolidate.

The bill would become operative on January 1, 2006.

In General

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On February 10, 2004, Governor Schwarzenegger signed Executive Order S-5-04 creating the California Performance Review (CPR) to conduct a focused examination of California state government. Based on this examination and assessment, the CPR will formulate and recommend practical changes to government agencies, programs and operations to reduce total costs of government operations, increase productivity, improve services, and make government more responsive and accountable to the public.

The CPR has four major components as outlined in the Governor's Budget Summary 2004-05: (1) Executive Branch Reorganization; (2) Program Performance Assessment and Budgeting; (3) Improved Services and Productivity; and (4) Acquisition Reform. Teams of approximately 150 state workers, on loan from different agencies and departments, will examine these areas of state government. A California Performance Review Commission will also be created, which may consist of legislators, representatives from local government, other Constitutional officers, and other interested parties. The purpose of the Commission is to provide counsel, advice, and conduct public hearings to get input from the general public on the current performance of government operations and ways to improve that performance.

The CPR is to make its final recommendations to the Governor not later than June 30, 2004.

Legislative History of Tax Agency Consolidation

The following bills have been introduced over the years that would have proposed to consolidate the FTB *into* the BOE:

- **ACA 13 (Leonard, 2001-02)**, would have changed the name of the BOE to the California Tax Commission and required the Commission to administer and collect taxes on income as prescribed by law. ACA 13 was held in the Assembly Appropriations Committee.
- **AB 15 (Klehs, et al., 1993-94)**, would have abolished the FTB and transferred its powers and duties to the BOE. This bill was vetoed by Governor Wilson. In part, the veto message states, "...I support streamlining government and consolidating the Board of Equalization and the Franchise Tax Board. AB 15 is not the way to accomplish this purpose. The Administration sponsored legislation that would have created a Department of Revenue within the Administration. That approach would avoid the conflict of interest inherent in AB 15, in which the Board of Equalization serves as both administrator of the tax system, as well as the appellate body for taxpayer appeals."
- **AB 3338 (McClintock, 1991-92)**, would have abolished the FTB and transferred its powers and duties to the BOE. This bill failed passage in the Assembly Revenue and Taxation Committee.
- **SB 1052/SCA 22 (Alquist, 1989-90)**, would have abolished the FTB and transferred its powers and duties to the BOE. SCA 22 would have added the Director of

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Finance (DOF) to the membership of the BOE. These bills were never heard in committee.

Other bills have also been introduced that would have consolidated the FTB and the BOE:

- **AB 2794 (Bowen, et al., 1995-96)**, would have abolished the FTB and, except as provided by the Constitution, the administrative authority of the BOE, and would have provided for the transfer of their respective powers and duties to the Department of Revenue (DOR), which this bill would have created. This bill would have also created a Board of Tax Appeals consisting of seven members appointed by the Governor to serve as an appellate body to hear all tax appeals. This bill failed passage in the Assembly Revenue and Taxation Committee.
- **SB 1727/SCA 29 (Kopp, 1995-96)**, would have, among other things, done the following: (1) abolished the FTB and the BOE and transferred their powers and duties to the California State Tax Authority, which this bill would have created; and (2) created a Board of Tax Appeals consisting of seven members appointed by the Governor to serve as an appellate body to hear all tax appeals. Both bills were held in the Senate Appropriations Committee.
- **SB 87/SCA 5 (Kopp, 1993-94)**, would have, among other things, done the following: (1) abolished the FTB and the BOE and transferred their powers and duties to the DOR, which the bill would have created; and (2) created a Board of Tax Appeals. SB 87 failed on the Senate floor. SCA 5 was placed on the Senate inactive file.
- **SB 1829 (Campbell, 1993-94)**, would have, among other things, consolidated the FTB and the BOE and transferred their powers and duties to the DOR, which the bill would have created. The BOE would provide administrative appellate review of all administrative tax matter decisions made by the DOR. The bill was never heard in committee.
- **SB 2137 (Campbell and Kopp, 1993-94)**, would have, among other things, consolidated the FTB and the BOE and transferred their powers and duties to the DOR, which the bill would have created. This bill would have also provided that the BOE would serve as the administrative appellate review of all administrative tax matter decisions made by the DOR. This bill failed passage in the Senate Appropriations Committee.
- **SB 23 (Kopp, 1991-92)**, would have, among other things, done the following: (1) abolished the FTB and the BOE and transferred their powers and duties to the DOR which the bill would have created; and (2) created a Board of Tax Appeals. This bill failed to move out of the Senate.
- **SB 1695 (Kopp, 1991-92)**, would have, among other things, done the following: (1) abolished the FTB and the BOE and transferred their powers and duties to the DOR, which the bill would have created; and (2) created a Board of Tax Appeals. SB 1695 was sent to interim study. The Assembly Revenue and Taxation Committee held an oversight hearing on February 24, 1992, which reviewed specific issues related to consolidating the FTB and the BOE into a DOR. The issues discussed included: administration, audit, collections, return processing, legal divisions/appeals process,

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facilities, and data processing. It was noted in the hearing that the state's budget crisis made consolidation less attractive at the time due to its costs and complexities.

- **SB 1395 (Kopp, Ayala, et al., 1989-90)**, would have, among other things, done the following: (1) abolished the FTB and the BOE and transferred their powers and duties to the DOR, which the bill would have created; and (2) created a Board of Tax Appeals. This bill failed passage in the Senate Appropriations Committee.

COMMENTS

1. **Sponsor and purpose.** This measure is sponsored by BOE Members Bill Leonard and Claude Parrish. According to the author's staff, this bill accomplishes two important goals. First, by consolidating duplicate agencies into one streamlined operation, waste will be eliminated and costs will be reduced. Secondly, the BOE is the ideal entity to oversee tax issues since the people elect its members. As elected officials, these members will be more responsive to Californians.
2. **Current study being conducted by Legislative Analyst Office (LAO) regarding consolidation of certain functions of the BOE, FTB, and Employment Development Department (EDD).** AB 986 (Chapter 569, Stats. 2003, J. Horton) requires the LAO to submit a report to the Legislature by November 1, 2004, regarding the possible consolidation of the remittance processing and cashing functions and the mail processing operations of the BOE, FTB, and the EDD, based on specified criteria. This bill also requires the three agencies to provide all data and information that the LAO identifies as necessary for completing the report and also requires the agencies to assist in the preparation of the report. The information provided includes, an evaluation of the short and long-term fiscal and budgetary advantages and disadvantages that would result from the proposed consolidation of the specific functions. This information must be submitted to LAO by July 1, 2004. Staff from BOE met with staff from LAO in March to discuss consolidation of these functions and to discuss the type of information that BOE is to provide to the LAO by July 1st.
3. **The LAO, in the Analysis of the 2004-05 Budget Bill, recommends that the BOE close and consolidate some of its field offices.** The LAO commented that providing taxpayer assistance and services through electronic means has improved dramatically over the last decade, reducing the need for a physical presence. The LAO recommends that the BOE explore alternatives for reducing its reliance on field offices through closures and consolidations, as well as identifying and describing additional improvements through the use of the Internet or various forms of telecommunication that would provide certain services more efficiently. The LAO estimates that the consolidation of certain closely located BOE offices in the southern California area would result in annual savings in the range of \$500,000 to \$750,000 (largely through lease, furniture, and utility savings) without resulting in any revenue reductions.

The FTB currently has 6 offices located in California and 4 offices located out-of-state (Chicago, Illinois, Long Island and Manhattan, New York, and Houston, Texas). The BOE currently has 27 offices located in California and 4 offices located out-of-

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state (Sacramento-based “Out-of-State,” Chicago, Illinois, New York, New York, and Houston, Texas). The FTB and BOE currently have offices at the same address in the following cities: Oakland, Sacramento, and San Francisco. The FTB has 5 field offices (Los Angeles, San Diego, Santa Ana, Chicago, Illinois, and Houston, Texas) in or near cities where the BOE also maintains a field office.

Consolidating offices in locations in which the BOE and FTB both maintain field offices would require consideration of existing leases and the availability of office space in those areas. Additionally, consolidation of field offices could reduce the travel time and cost to those taxpayers who deal with both the BOE and the FTB.

- 4. The BOE has already decided to reduce the number of its field offices.** On March 9, 2004, Board Members made a decision to close the BOE’s Torrance District Office. On September 1, 2004, all Torrance staff will move into the Culver City District Office. Some factors in deciding whether to close the office included the pending renegotiation of the Torrance lease, the proximity of the two offices, and the availability of space in the Culver City office. By closing the Torrance office, the BOE will save more than \$500,000 in the 2004-05 fiscal year, with an ongoing savings of more than \$600,000 a year.

5. Proponents of consolidation of the agencies argue the following points:

- **Consolidation would reduce administrative costs in the long-term.** It would reduce administrative costs, since it would result in the consolidation of administrative and staff services, including personnel and training. Also, it would avoid duplication of collection efforts, fiscal duties, and mailing costs. Data processing operations could be consolidated. Proponents state that consolidation of the data processing operations of both agencies could provide for improved information management and produce economies of scale.
- **Consolidation would provide uniform tax policy and administration.** It would assure Californians greater uniformity in the compliance and appeals processes and provide an opportunity to simplify and reduce regulations, and to reduce and standardize the number of taxpayer reports that need to be filed.
- **Consolidation would benefit taxpayers.** Consolidation could enhance taxpayers’ ability to conduct business by: (1) reducing the confusion over which agency is responsible for a particular tax issue; and (2) reducing correspondence with, or travel to, state tax agencies. Also, consolidation can lead to coordinated taxpayer assistance programs that would provide taxpayers with comprehensive information about taxes in California.
- **Audits could be consolidated.** Some proponents argue that if the tax administration were consolidated into one agency, all taxes could be audited at the same time.

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- **Elected officials tend to be more responsive than an appointed body.** Proponents have argued that a consolidated tax agency should be administered by an elected body because elected officials are more responsive to the people than appointed officials. Section 15623 of the Government Code requires Board Members to investigate the administration, enforcement, and operation within their districts, of all laws in which the administration and enforcement is vested with the BOE. As such, it is the Board Members job to represent taxpayers and to make sure that BOE's tax programs are administered uniformly. With a representative tax administration, taxpayers can go directly to their Board Member for help with tax matters.

6. Arguments against AB 2000 are:

- **This bill may be premature.** Until the findings of the LAO study regarding consolidation of certain operations of the BOE, FTB, and the EDD are available, there is no substantiation of long-term savings and efficiencies. Incurring substantial short-term costs of consolidation may not be warranted until the LAO issues their conclusions and recommendations.
 - **BOE to submit strategic plan on consolidation to Governor and the Legislature by June 30, 2005. Strategic plan should contain levels of integration and time frames for consolidation.** This bill requires the BOE to submit a report to the Governor and the Legislature on its plan and progress of consolidation by June 30, 2005. The report is to include a strategic plan on consolidating all of the operations of the FTB into the BOE. The plan does not provide sufficient detail of how the two agencies would consolidate. The plan should identify specific goals for integrating operations, including levels of integration, and contain timeframes to reach these goals.
- 7. Related legislation.** ACA 22 (Dutra) would rename the BOE as the California Tax Commission and would require the Commission to collect and administer taxes on or measured by income as prescribed by law and conduct administrative review of state tax matter determinations.

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COST ESTIMATE

Several studies have been prepared since the 1940's examining the advantages and disadvantages of consolidation. Some of these studies have cited projections of costs and savings associated with various aspects and forms of consolidation; however, none of these studies have provided any detail to support these amounts. Since there are many variables which would affect the cost associated with consolidation of the tax agencies, it is not possible to prepare a reliable estimate. In general, there could be increases in various costs, including, but not limited to, training (if auditors were required to learn about other tax programs), administrative costs (to maintain parallel administrative processes during conversion), space, and equipment. It is also possible that there could be savings related to combined efforts in various areas, including collection, fiscal functions, and mail processing, but the amount of these savings could not be determined without an extensive, detailed study.

REVENUE ESTIMATE

This bill in and of itself would not affect the state's tax revenues. In general, the transfer of the tax collection and administration responsibilities of the income taxes to the BOE would not appear to have any effect on the state's revenues. It is possible, however, that a decrease in revenue could be experienced during the period of conversion as a result of the requirement to spend staff time developing the procedures for the new agency.

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